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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/897,295

06/29/2001

William J. Boyle

ACS-56001 (26361)

1994

24201

7590

03/25/2009

FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

EXAMINER

YU, JUSTINE ROMANG

ART UNIT

PAPER NUMBER

3771

MAIL DATE

DELIVERY MODE

03/25/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WILLIAM J. BOYLE, ANDY E. DENISON,
BENJAMIN C. HUTER, SCOTT J. HUTER, JOHN E. PAPP,
CHARLES R. PETERSON, and KENT C.B. STALKER

Appeal No. 2009-0173
Application No. 09/897,295
Technology Center 3700

Mailed: March 25, 2009

Before DALE M. SHAW, *Chief Appeals Administrator*.

NOTIFICATION OF NON-COMPLIANT REQUEST
FOR ORAL HEARING

A review of the appeal proceedings reveals that the appellants filed an
Appeal Brief on June 14, 2007, and on page 2 of the Appeal Brief,

appellants included a section requesting an oral hearing in connection with the appeal. Note that 37 C.F.R. § 41.47(b) states:

If appellant desires an oral hearing, appellant must file, as a separate paper captioned “REQUEST FOR ORAL HEARING,” a written request for such hearing accompanied by the fee set forth in § 41.20(b)(3) within two months from the date of the examiner’s answer or supplemental examiner’s answer.

Appellants’ request for oral hearing is not in compliance with 37 C.F.R. § 41.47(b) because it was not filed as a separate paper;¹ therefore, the request for an oral hearing cannot be granted.

If appellants still desire an oral hearing, a petition under 37 C.F.R. § 41.3 must be filed within two weeks of the mailing date of this notification. Such a petition must include:

(1) a request to suspend the separate paper requirement of 37 C.F.R. § 41.47(b);

(2) a showing of facts to establish that an extraordinary situation exists and that justice requires that the separate paper requirement of 37 C.F.R. § 41.47(b) be suspended or waived; and

¹ Note USPTO form PTO/SB/32 (last updated 2008/10) entitled “Request for Oral Hearing before the Board of Patent Appeals and Interferences” is available on the USPTO website.

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(3) the petition fee set forth in 37 C.F.R. § 41.20(a).

This two-week time period for filing a petition under 37 C.F.R. § 41.3 is not extendable under 37 C.F.R. § 1.136(a). The failure to timely file a petition under 37 C.F.R. § 41.3 will result in the appeal being decided without an oral hearing (i.e., on brief).

If appellants decide not to file a petition under 37 C.F.R. § 41.3, the Board of Patent Appeals and Interferences would appreciate written notification to that effect so that a decision on the appeal may be expedited.

If there are any questions pertaining to this Notification, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DMS/ewh

FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045